

database; and

v. make available, from the processing computer, the confirmation as a communication to the institution, broker, agent and interested parties for the exchange of money and securities to settle the trade.

Remarks

I. INTRODUCTION

Reconsideration and allowance of the captioned application is respectfully requested. The claims have been amended to clarify the subject matter recited therein. No new matter has been added.

With respect to the Communication dated August 9, 2001, Applicants have corrected the marked-up copy of the claims.

II. REJECTION OF CLAIMS 9 AND 28 UNDER 35 U.S.C. § 112, ¶ 2

Claims 9 and 28 stand rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite. Applicants have amended claims 9 and 28 to clarify the subject matter recited therein. It is respectfully submitted that claims 9 and 28 are now definite. Withdrawal of the rejection is, therefore, requested.

III. REJECTION OF CLAIMS 1-9, 12, 13 AND 21-32 UNDER 35 U.S.C. §103(a)

Claims 1-9, 12, 13 and 21-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Proposed Rule Change filed with the Securities and Exchange Commission (S.E.C.), File No. SR-DTC-93-7, by The Depository Trust Company ("The Depository Trust Company filing") in view of

U.S. Patent No. 5,497,317 to Hawkins et al. (the "Hawkins et al. patent"). It is respectfully submitted that this rejection should be withdrawn in view of the following remarks.

In order for a claim to be rejected for obviousness under § 103, the prior art must teach or suggest each element of the claim and suggest combining the elements in the manner contemplated by the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir.), cert. denied 111 S.Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990).

Claim 1 recites the following:

. . . a processing computer within the computer system, which is coupled to the standing instruction database and which is configured to:

- i. receive a communication from a broker containing notice of order execution information (a broker communication);
- ii. receive a communication from the institution containing institution allocation instruction information (an institution communication);
- iii. match, at the processing computer, the institution communication with the broker communication based on information contained in both communications

Claims 9, 12, 21 and 31 recite similar subject matter. Claims 2-8 and 32 depend from claims 1 and 31, respectively.

Also, claim 22 recites a method including the following steps:

- . . . receiving a communication from the broker containing the notice of order execution information (a broker communication);
- b. receiving a communication from the institution containing institution allocation instruction information (an institution communication);
- c. matching the institution communication with the broker communication based on information contained in both communications

Claim 29 recites similar subject matter. Claims 23-28 and claim 30 depend from claims 22 and 29, respectively.

The present invention relates to an enhanced matching system which facilitates settlement of a securities trade by obtaining agreement as to the details of that

securities trade in fewer steps than previously needed. This enhanced matching system can be referred to as "Matching II". Matching II allows for fewer steps in the trade settlement process by matching of information contained in the notice of execution (NOE), sent by the broker to the institution, to the institution allocation instruction (II), sent in reply by the institution to the broker. See Specification, page 20, lines 1, to page 29, line 2.

The Depository Trust Company filing, on the other hand, neither teaches nor suggests, and in fact teaches away from, matching of information in the NOE and the II. Rather, in The Depository Trust Company filing, trade settlement instructions (i.e., trade input) is input after trade execution and during the trade settlement process. The system matches that trade input to the II. See The Depository Trust Company filing, page 20, lines 5-6. This system facilitates trade settlement only by reducing the number of steps related to the **traditional confirmation/affirmation** process of the trade settlement. Such a trade settlement system can be referred to as "Matching I".

In Matching I, upon a trade execution, a NOE is sent from the broker to the institution via The Depository Trust Company (The DTC). Upon receipt of the NOE by the institution, the institution sends an II to the broker, again via The DTC. At this point, the broker must enter trade settlement instructions (i.e., the trade data received from the broker dealer) for the trade and send them to The DTC. See The Depository Trust Company filing, page 4 of 72, page 29 of 72, page 19 of 72 line 30 to page 20 line 3. This step is required by Matching I as The DTC then matches this further information to the II. See The Depository Trust Company filing, page 20, lines 5-6, and page 50, lines 3-4. If a match occurs, The DTC sends either a "matched affirmed" or "matched" confirmation, thus supplanting the traditional confirmation/ affirmation process. See The Depository Trust Company filing, page 20, lines 6-12, and page 50, lines 11-15.

Accordingly, The Depository Trust Company filing neither teaches nor suggests automatically matching received **notice of execution** information from a broker with **institution allocation instruction** information from an institution.

The Examiner apparently relies on the page 4 of 72, lines 14-16 of The Depository Trust Company filing as disclosing Applicants recited match. Respectfully, this portion of The Depository Trust Company filing does **not** describe matching an institution communication with a broker communication that **contains a notice of order execution**. Instead, this portion describes matching institution instructions with trade data received from the broker-dealer. Nowhere does The Depository Trust Company filing even suggest that this trade data is received in a communication containing a notice of order execution. In fact, the trade data is data is **trade settlement information** as described above, (and is **not** contained in a communication that contains a notice of order execution).

The Hawkins et al. patent does not cure this deficiency of The Depository Trust Company filing.

For at least these reasons, it is respectfully submitted that neither The Depository Trust Company filing nor the Hawkins et al. patent, alone or combined, renders obvious the subject matter of any of claims 1-9, 12 and 31-32.

Furthermore, claim 13 recites the following:

In a computerized communication system used to exchange communications between a broker and an institution in the settlement of a securities trade:

- a. a broker communication containing data within data fields designated by:
institution identification number;
broker identification number;
security identification number;
buy/sell code;
number of shares or face value;
settlement amount;
trade date; and
settlement date,
- b. an institution communication containing data within data fields designated by:
institution identification number;
broker identification number;

security identification number;
buy/sell code;
number of shares or face value;
settlement amount;
trade date; and
settlement date, and

c. a computer processor which compares the data within data fields of the broker communication with the data within data fields of the institution communication and if the data matches, generates a confirmation for the trade and makes that confirmation available from the computer processor to the institution, broker, agent and interested parties for the settlement of the trade.

Each of the fields recited in connection with the broker communication and the institution communication are fields from a notice of executed order and an institution allocation instructions. Thus, arguments made above in connection with claims 1-9, 12 and 31-32 and The Depository Trust Company filing and the Hawkins et al. patent apply equally to claim 13. Accordingly, neither The Depository Trust Company filing nor the Hawkins et al. patent renders obvious the subject matter of claims 13.

Furthermore, claim 1 recites the following:

a standing instructions database containing sets of instructions for trade settlement input by the institution, the broker, and the agent prior to the securities trade.

Claims 21, 29 and 31 recite similar subject matter. Claims 2-8, 30 and 32 depend from claims 1, 29 and 31, respectively.

In accordance with the present invention, Matching II, as recited in claims 1, 21, 29 and 31, allows parties to the trade (i.e., the broker, institution and/or agent) to input sets of instructions for trade settlements into the standing instructions database (SID) at a time before the trade occurs. See Specification, page 13, line 15, to page 18, line 19. Building upon such previous input of the trade settlement information by the parties, Matching II, as recited in claims 1, 21, 29 and 31, upon a match of information contained in the NOE and II, generates a confirmation based upon that matched information and the trade settlement

information. See Specification, page 20, lines 4-8, and page 32, line 6, to page 34, line 20. In particular, claims 1, 21, 29 and 31 recite "if there is a match, generating a confirmation for the trade based on information contained in the broker communication, information contained in the institution communication and information stored in the standing instructions database."

Thus in Matching II, upon a trade execution, a notice of execution (NOE) is sent by the broker to the institution via the processing computer. Upon receipt of the NOE by the institution, the institution sends an institution allocation instruction (II) to the broker, again via the processing computer. At this point, the processing computer matches the information contained in each communication (i.e., the NOE and the II) and, if there is a match, generates a confirmation based on the information contained in each of the two communications and, if necessary, the information previously stored in the SID by the parties to the trade (i.e., the instructions for the trade settlement). In this manner then, the parties to the trade can immediately effect an exchange of funds and securities (i.e., trade settlement) according to the delivery instructions set forth in the confirmation.

The Depository Trust Company filing, on the other hand, neither teaches nor suggests, and in fact teaches away from, matching of information in the NOE and the II, input of trade settlement instructions before trade execution, and the subsequent addition of that information to the confirmation. Rather, The Depository Trust Company filing still requires input of trade settlement instructions (i.e., trade input) after trade execution and during the trade settlement process, matches that trade input to the II, and facilitates trade settlement by reducing the number of steps related to the traditional confirmation/affirmation process of the trade settlement.

As noted above, in Matching I, upon a trade execution, a NOE is sent from the broker to the institution

via The Depository Trust Company (The DTC). Upon receipt of the NOE by the institution, the institution sends an II to the broker, again via The DTC. At this point, the broker must enter trade settlement instructions (i.e., the trade data received from the broker-dealer) for the trade and send them to The DTC. See The Depository Trust Company filing, page 19, line 30 to page 20 line 3. This step is required by Matching I as The DTC then matches this information to the II. ---See The Depository Trust Company filing, page 20, lines 5-6, and page 50, lines 3-4. If a match occurs, The DTC sends either a "matched affirmed" or "matched" confirmation, thus supplanting the traditional confirmation/ affirmation process. See The Depository Trust Company filing, page 20, lines 6-12, and page 50, lines 11-15. The Hawkins et al. patent in no way cures the above mentioned deficiencies. It is respectfully submitted that neither The Depository Trust Company filing, nor the Hawkins et al. patent, alone or combined, render obvious the subject matter of any of claims 1-8, 21 and 29-32 for these additional reasons.

IV. REJECTION OF CLAIMS 14-20 UNDER 35 U.S.C. § 103

Claims 14-20 stand rejected under 35 U.S.C. § 103 as being obvious over The Depository Trust Company filing in view of U.S. Patent No. 6,098,051 to Lupien et al. (the "Lupien et al. patent"). It is respectfully submitted that neither The Depository Trust Company filing, nor the Lupien et al. patent, alone or combined, render obvious any of claims 14-20, for at least the following reasons.

As an initial matter, it is respectfully submitted that there is no suggestion to combine the Lupien et al. patent with The Depository Trust Company filing. In particular, The Depository Trust Company filing relates to trade **settlement**. In sharp contrast, the Lupien et al. patent generally relates to matching **buy and sell orders** based on a satisfaction and quantity profile. A person of skill in the art, seeking to improve the system described in The Depository

Trust Company filing, would not look to a system that matches buy and sell orders. These two systems simply relate to different types of processes at different stages in a trade.

Moreover, claim 14 recites subject matter which is similar to that discussed above in connection with claim 1. Accordingly, the arguments presented above in connection with The Depository Trust Company filing and claim 1 similarly apply to claim 14. The Lupien et al. patent does not cure the noted deficiencies of The Depository Trust Company filing.

In view of the foregoing, it is respectfully submitted that neither The Depository Trust Company filing, nor the Lupien et al. patent, alone or combined, render obvious the subject matter of any of claims 14-20.

v. CONCLUSION

In light of the above remarks it is respectfully submitted that all of the pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: 16 Aug 2001

By: 

Michelle M. Carniaux
Reg. No. 36,098

KENYON & KENYON
One Broadway
New York, New York 10004
(212) 425-7200

AMENDMENT VERSION WITH MARKINGS

IN THE CLAIMS:

Please amend the claims as follows:

1. (Amended) A system for settlement of a securities trade by obtaining agreement as to the details of the trade among a broker, institution, agent and interested parties comprising:

- a. a computer system which enables the broker, institution, agent and interested parties to send and receive communications;
- b. a standing instructions database containing sets of instructions for trade settlement [previously] input by the institution, the broker and the agent prior to the securities trade;
- c. a processing computer within the computer system, which is coupled to the standing instruction database and which is configured to:
 - i. receive a communication from the broker containing notice of order execution information (a broker communication);
 - ii. receive a communication from the institution containing institution allocation instruction information (an institution communication);
 - iii. match, at the processing computer, the institution communication with the broker communication based on information contained in both communications;
 - vi. if there is a match, generate a confirmation for the trade based on information contained in the broker communication, information contained

in the institution communication and information stored in the standing instructions database; and

- v. make available, from the processing computer, the confirmation as a communication to the institution, broker, agent and interested parties for the exchange of money and securities to settle the trade.

9. (Amended) A computer-based system for settlement of a securities trade among an institution, broker, agent and interested parties, the system comprising:

a processing computer configured to (i) receive a notice of order execution communication from the broker (a broker communication) [comprising] containing data fields with information concerning [the] an executed trade; (ii) receive a institution allocation instruction communication from the institution (an institution communication) [comprising] containing data fields concerning the executed trade; where some of the data fields within the institution communication [corresponding] corresponds to data fields within the broker communication; and (iii) match the broker communication and the institution communication by matching data within a preselected set of the corresponding data fields in the broker and institution communications.

14. (Amended) In a computerized communication system for exchanging post-trade information between the parties necessary for the settlement of a securities trade, the apparatus comprising:

- a trade confirmation communications system [comprised] configured to receive, process and transmit communications from and to the parties;

- b. a standing instructions data base coupled to the trade confirmation communications system having at least one data table for storing a plurality of information related to the trade stored [previously] by at least one of the parties prior to the securities trade;
- c. a matching controller coupled to and within the trade confirmation communications system configured [comprised] to match a trade communication containing notice of order execution information from one of the parties to a communication containing a trade allocation information from another one of the parties; and
- d. the trade confirmation communications system further [comprised] configured to generate a confirmation based on information within the received communication and information stored within the standing instruction database.

21. (Amended) A system executing post-trade communications in the settlement of a securities trade among a broker, institution, agent and interested parties comprising:

- a. computer hardware and software means to enable the broker, institution, agent and interested parties to send and receive communications;
- b. means to store a set of standing instruction records containing sets of instructions for trade settlement [previously] input by the institution, the broker and the agent prior to the securities trade;
- c. computer hardware and software means to:
 - i. receive a communication from the broker containing notice of order execution information (a broker communication);
 - ii. receive a communication from the institution

containing institution allocation instruction information (an institution communication);

- iii. match, at the computer hardware and software means, the institution communication with the broker communication based on information contained in both communications;
- iv. if there is a match, generate a confirmation for the trade based on information contained in the broker communication, information contained in the institution communication and information stored in the standing instructions database; and
- v. make available, from the computer hardware and software means, the confirmation as a communication to the institution, broker, agent and interested parties for the exchange of money and securities to settle the trade.

28. (Amended) The method of claim 22, further comprising the [additional] steps of:

[of] storing the institution communication and retrieving it before attempting to match the broker communication with the institution communication.

29. (Amended) A method for operating a computer to execute the communications necessary for settlement of a securities trade among a broker, institution, agent and interested parties, the method comprising the steps of:

- a. receiving [beforehand] prior to the securities trade from one or more of the broker, institution and agent a set of instructions for trade settlement;
- b. a standing instructions database storing the instructions for trade settlements;

- c. receiving a communication from the broker containing notice of order execution information (a broker communication);
- d. receiving a communication from the institution containing institution allocation instruction information (an institution communication);
- e. matching the institution communication with the broker communication based on information contained in both communications;
- f. if there is a match, generating a confirmation for the trade based on information contained in the broker communication, information contained in the institution communication and information stored in the standing instructions database; and
- g. making available, from a central location, the confirmation as a communication to the institution, broker, agent and interested parties for settlement of the trade.

31. (Amended) A system for settlement of a securities trade by communicating the details of the trade among a broker, institution, agent and interested parties comprising:

- a. a computer system which enables the broker and institution to send and receive communications and make communications available to the agent and interested parties;
- b. a standing instructions database containing sets of instructions for trade settlement [previously] input by the institution, the broker and the agent prior to the securities trade;
- c. a processing computer within the computer system, which is coupled to the standing instruction database and which is configured to:

- i. receive a series of communications from the broker containing notice of order execution information, the series including a last broker communication;
- ii. receive a communication from the institution containing institution allocation instruction information (an institution-communication);
- iii. match, at the processing computer, the institution communication with the last broker communication based on information contained in both communications;
- iv. if there is a match, generate a confirmation for the trade based on information contained in the last broker communication, information contained in the institution communication and information stored in the standing instructions database; and
- v. make available, from the processing computer, the confirmation as a communication to the institution, broker, agent and interested parties for the exchange of money and securities to settle the trade.